

## SUBCHAPTER A—GENERAL

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36284, July 31, 1991, unless otherwise noted.

#### Subpart 201.1—Purpose, Authority, Issuance

##### 201.104 Applicability.

The FAR and the Defense Federal Acquisition Regulation Supplement (DFARS) also apply to purchases and contracts by DoD contracting activities made in support of foreign military sales or North Atlantic Treaty Organization cooperative projects without regard to the nature or sources of

funds obligated, unless otherwise specified in this regulation.

[56 FR 36284, July 31, 1991. Redesignated at 64 FR 39430, July 22, 1999]

##### 201.105 Issuance.

##### 201.105-3 Copies.

The DFARS and the DFARS Procedures, Guidance, and Information (PGI) are available electronically via the World Wide Web at <http://www.acq.osd.mil/dpap/dars/index.htm>.

[69 FR 63326, Nov. 1, 2004]

##### 201.107 Certifications.

In accordance with Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425), a new requirement for a certification by a contractor or offeror may not be included in the DFARS unless—

(1) The certification requirement is specifically imposed by statute; or

(2) Written justification for such certification is provided to the Secretary of Defense by the Under Secretary of Defense (Acquisition, Technology, and Logistics), and the Secretary of Defense approves in writing the inclusion of such certification requirement.

[63 FR 11528, Mar. 9, 1998, as amended at 65 FR 39704, June 27, 2000]

#### Subpart 201.2—Administration

##### 201.201 Maintenance of the FAR.

##### 201.201-1 The two councils.

(c) The composition and operation of the DAR Council is prescribed in DoDI 5000.63, Defense Acquisition Regulations (DAR) System.

(d)(i) Departments and agencies process proposed revisions of FAR or DFARS through channels to the Director of the DAR Council. Process the proposed revision as a memorandum in the following format, addressed to the Director, DAR Council, OUSD(AT&L), 3062 Defense Pentagon, Washington, DC 20301-3062; datafax (703) 602-0350:

I. **PROBLEM:** Succinctly state the problem created by current FAR and/or DFARS coverage and describe the factual and/or legal reasons necessitating the change to the regulation.

II. **Recommendation:** Identify the FAR and/or DFARS citations to be revised. Attach as TAB A a copy of the text of the existing coverage, conformed to include the proposed additions and deletions. Indicate deleted coverage with dashed lines through the current words being deleted and insert proposed language in brackets at the appropriate locations within the existing coverage. If the proposed deleted portion is extensive, it may be outlined by lines forming a box with diagonal lines drawn connecting the corners.

III. **Discussion:** Include a complete, convincing explanation of why the change is necessary and how the recommended revision will solve the problem. Address advantages and disadvantages of the proposed revision, as well as any cost or administrative impact on Government activities and contractors. Identify any potential impact of the change on automated systems, e.g., automated financial and procurement systems. Provide any other background information that would be helpful in explaining the issue.

IV. **Collaterals:** Address the need for public comment (FAR 1.301(b) and subpart 1.5), the Paperwork Reduction Act, and the Regulatory Flexibility Act (FAR 1.301(c)).

V. **Deviations:** If a recommended revision of DFARS is a FAR deviation, identify the deviation and include under separate TAB a justification for the deviation that addresses the requirements of 201.402(2). The justification should be in the form of a memorandum for the Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).

(ii) The public may offer proposed revisions of FAR or DFARS by submission of a memorandum, in the format (including all of the information) prescribed in paragraph (d)(i) of this subsection, to the Director of the DAR Council.

[56 FR 36284, July 31, 1991, as amended at 60 FR 61591, Nov. 30, 1995; 61 FR 50451, Sept. 26, 1996; 63 FR 11528, Mar. 9, 1998; 65 FR 6552, Feb. 10, 2000; 68 FR 7439, Feb. 14, 2003]

#### **201.201-70 Maintenance of Procedures, Guidance, and Information.**

The DAR Council is also responsible for maintenance of the DFARS Procedures, Guidance, and Information (PGI).

[69 FR 63326, Nov. 1, 2004]

### **Subpart 201.3—Agency Acquisition Regulations**

#### **201.301 Policy.**

(a)(1) DoD implementation and supplementation of the FAR is issued in the Defense Federal Acquisition Regulation Supplement (DFARS) under authorization and subject to the authority, direction, and control of the Secretary of Defense. The DFARS contains—

- (i) Requirements of law;
- (ii) DoD-wide policies;
- (iii) Delegations of FAR authorities;
- (iv) Deviations from FAR requirements; and

(v) Policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors.

(2) Relevant procedures, guidance, and information that do not meet the criteria in paragraph (a)(1) of this section are issued in the DFARS Procedures, Guidance, and Information (PGI).

(b) When FEDERAL REGISTER publication is required for any policy, procedure, clause, or form, the department or agency requesting Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD (AT&L)) approval for use of the policy, procedure, clause, or form (see 201.304(1)) must include an analysis of the public comments in the request for approval.

[56 FR 36284, July 31, 1991, as amended at 60 FR 61591, Nov. 30, 1995; 65 FR 6552, Feb. 10, 2000; 69 FR 63326, Nov. 1, 2004]

#### **201.303 Publication and codification.**

(a)(i) The DFARS is codified under chapter 2 in title 48, Code of Federal Regulations.

(ii) To the extent possible, all DFARS text (whether implemental or supplemental) is numbered as if it were implemental. Supplemental numbering is used only when the text cannot be integrated intelligibly with its FAR counterpart.

(A) Implemental numbering is the same as its FAR counterpart, except when the text exceeds one paragraph,